

## General Instructions and Information

### Who Must File

A fiduciary of a resident estate or trust, or a fiduciary of a nonresident estate or trust with income derived from Utah sources, if required to file a U.S. Fiduciary Income Tax Return, must file a Utah Fiduciary Income Tax Return (form TC-41). A complete copy of the U.S. Fiduciary Income Tax Return, form 1041 (including copies of all applicable schedules such as Schedule K-1 and Schedules A, B, D, G, I, and J), must be attached to the Utah return.

### Fiduciary and Estate Defined

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any individual or entity. The term "estate" refers only to the estate of a deceased person and does not include a trust that is maintained for minors, for a person adjudicated incompetent, or for any person who is suffering from some other legal disability.

**Note:** Throughout these instructions, any reference to "you" means the fiduciary of the estate or trust.

### Domicile Defined

"Domicile" means the place where an individual has a true, fixed, permanent home and principal establishment, and to which place he has (whenver he is absent) the intention of returning. It is the place in which a person has voluntarily fixed the habitation of himself and family, not for a mere special or temporary purpose, but with the present intention of making a permanent home (28 C.J.S. Domicile §1). After domicile has been established, two things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed his domicile, a new domicile must be shown.

### Resident Estate and Resident Trust Defined

"Resident estate" or "resident trust" means:

- An estate of a decedent who, at his death, was domiciled in this state;
- A trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or

- A trust administered in this state. A trust shall be considered to be administered in this state if:
  - The place of business where the fiduciary transacts a major portion of its administration of the trust is in this state; or
  - The usual place of business of the fiduciary is in this state.

### Nonresident Estate and Nonresident Trust Defined

The terms "nonresident estate" or "nonresident trust" are defined as estates or trusts that are not resident estates or trusts.

### Exempt Trusts Defined

A trust that is exempt from federal income tax is exempt from Utah income tax unless there is unrelated business income in Utah.

### When and Where to File

A return for the calendar year must be filed with the Utah State Tax Commission, 210 N 1950 W, SLC, UT 84134-0250 on or before April 15, 2002. A return for a fiscal year must be filed on or before the 15th day of the fourth month after the close of that fiscal year.

### Extension of Time for Filing Return

This is NOT an extension of time to pay your taxes - it is an extension of time to file your tax return.

You are automatically allowed an extension of up to six months to file your return without filing an extension form. *However, if the prepayment requirements (see next paragraph) are not met on or before the original due date (April 15th) penalties will be assessed.* (See "Penalties" and "Interest" instructions on page 3.) All extension returns must be filed by October 15, 2002.

### Prepayment Requirements

The required prepayment must equal:

- Ninety percent (90%) of the tax due for 2001 or;
- One hundred percent (100%) of the amount of your 2000 Utah tax liability as indicated on *line 17 of your 2000 Utah Fiduciary Income Tax Return.*

A prepayment may be in the form of withholding (W-2, TC-675R, TC-675M, etc.), tax credit, and/or payment made on or before the tax due date using form TC-548, "Prepayment of Fiduciary Tax." Interest will be assessed on unpaid tax from the filing due date until the tax is paid in full. Penalties may also be assessed.

## Amended Returns

If you need to amend a return, use the tax form and instruction for the year you are amending.

Amend your state return promptly if:

1. An error is discovered on your state or federal return after it has been filed; or
2. Your federal return is audited or adjusted by the IRS and the IRS audit or adjustment affects your state return. You must amend your state return within 90 days of the IRS's final determination. If you are unsure whether or not your state taxes are affected by an audit or adjustment, contact the Tax Commission.

To qualify for a refund or a credit, an amended return must generally be filed within three years following the date the original return was filed. A return filed before the due date is considered filed on the due date. If an amended return is required due to changes made by the IRS, a claim for refund or credit must be made within two years after a Utah amended return was required to be filed.

### To amend previously filed return:

1. Check the "AMENDED" box located at the top of the return.
2. Indicate the reason for amending, by writing one of the following numbers in the box provided on the return.

### Reasons For Amending

- 1 You filed an amended return with the IRS (attach a copy of your amended federal return).
- 2 You made an error on your state return (attach an explanation of the error).
- 3 Your tax calculation was changed by an IRS audit and/or adjustment (attach a copy of the IRS adjustment).
- 4 You had a Net Operating Loss. Utah allows net operating losses to be carried back two years and carried forward twenty years on state individual income tax returns. If your amended return is the result of a carryback net operating loss, complete an income tax return for each year you are amending (attach a copy of your amended federal return).
- 5 Other (attach explanation to return).

Complete the return entering the corrected figures. Enter other amounts shown on the original return.

If you received a refund on your original return, enter the total previous refunds on line 16 of the 2001 return. If you paid with the original return or made sub-

sequent payments of the tax prior to filing the amended return, enter the total previous payments on line 22 of the 2001 return.

**Remember:** Except for the amounts you amend, all other amounts you place on the return must match the amounts you placed on those lines on your original return.

## Period to be Covered by Return

The first return filed by an administrator or executor of an estate must cover the period from the date of death of the decedent to the end of the first tax year selected by the fiduciary. The first return filed by a fiduciary of a trust must cover the period beginning with the creation of the trust to the end of the first tax year selected by the fiduciary. Returns must be filed for each subsequent year that the estate or trust is in existence. The taxable year cannot be longer than 12 months and must coincide with the tax year selected for purposes of filing the federal return. The accounting methods used for federal fiduciary income tax purposes must be the same for Utah fiduciary income tax purposes.

**FINAL RETURN:** Check the box provided in the top center of the return if this is a final return.

## Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries

The estate or trust must include the full amount of each of these items. The amounts of the state tax addback and the interest on U.S. government obligations that are allocated to beneficiaries, as explained below, are entered on line 10 and line 6 of the return.

The respective shares of an estate or trust and its beneficiaries (including an estate or trust that is a beneficiary of another estate or trust) in the state tax addback and interest on U.S. government obligations shall be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the state tax addback and U.S. government obligations shall be in proportion to its share of the estate or trust income for that year, which is, under state law or the governing instrument, required to be distributed currently plus any other amounts of such income distributed in that year.

## Amounts Reportable as Utah Income by the Beneficiaries

Resident beneficiaries will report to Utah the income from the estate or trust included in the beneficiary's federal adjusted gross income as though the beneficiary received the income directly. The residence of

the estate or trust does not affect the source of income for computing the beneficiary's Utah individual income tax. Nonresident beneficiaries must file Utah income tax returns and report that portion of their distribution that was derived from Utah sources (see instructions for Schedule A, following the line-by-line instructions).

### **Payment of Tax**

The tax due is required to be paid in full with the return. Make check or money order payable to the Utah State Tax Commission.

### **Signature**

Be sure that the return is properly signed. An unsigned return is not a valid return and in case of any controversy, the benefits of filing a proper, timely return may be denied.

### **Penalties**

The penalty for failure to file a tax due return by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely.

The penalty for failure to pay tax due as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due.

The penalty for underpayment of an extension prepayment is 2 percent per month of the unpaid tax during the extension period. *If the return is not filed by the extension due date, failure to file and failure to pay penalties will apply, as if the extension has not been granted.*

For a list of additional penalties that may be imposed, refer to UCA §59-1-401.

### **Interest**

The interest rate applicable for most taxes and fees administered by the Tax Commission shall be two percentage points above the federal short-term rate in effect for the preceding fourth calendar quarter. The IRS publishes this rate in September of each year.

The interest rate for most taxes and fees administered by the Tax Commission for the 2002 calendar year is 6 percent.

**Interest is in addition to any penalties due.**

### **Rounding Off to Whole Dollar Amounts**

You must round off cents to the nearest whole dollar. Round down if cents are under 50 cents. Round up if cents are 50 cents and above.

## Line-By-Line Instructions

### Heading

Print or type the information requested in the spaces provided (use black ink). Enter the full name of the estate or trust. The federal employer identification number (or social security number if the fiduciary is an individual) is required for both the estate or trust and the fiduciary.

### Line 1 – Type of Return

Check the appropriate box that describes the entity for which you are filing the return. The type of return must match the type of entity indicated in part A of the federal Form 1041. For “pooled” income funds, check box H, “Charitable trust.”

*All taxpayers filing a federal form 1041-QFT need to attach a copy of that form and all schedules to the “Utah Fiduciary Income Tax Return,” form TC-41. The general instructions on how to file a return for a Qualified Funeral Trust are located on page 13.*

### Line 2 – Status of Estate or Trust

Check the appropriate box that describes the status of the estate or trust. Refer to the General Instructions to determine if the estate or trust is a resident or nonresident entity.

### Line 3 – Resident/Nonresident Beneficiaries

If any beneficiary of the trust is not a resident of Utah, check the box. If all the beneficiaries are residents of Utah, leave the box blank.

#### Resident defined

A trust beneficiary is a Utah resident if:

1. Domiciled for the entire year in Utah, even though temporarily outside of Utah for an extended period of time - even years in certain situations;
2. Domiciled in Utah for any period of time during the taxable year, but only for the duration of that period; or
3. Even though domiciled outside Utah, maintains a permanent place of abode within the state and spends a total of 183 days or more of the taxable year within Utah.

#### Part-year resident defined

A trust beneficiary is a part-year Utah resident if domiciled in Utah for part of the taxable year and domiciled outside of Utah for part of the taxable year. For purposes of this line only, the box should be checked if a beneficiary is a part-year resident.

#### Nonresident defined

A trust beneficiary is a Utah nonresident if that beneficiary is not domiciled in Utah, or was in Utah for a temporary or transitory purpose for less than 183 days during the taxable year.

### Line 4 – Federal Taxable Income

**If you checked the box marked “resident” on line 2**, enter the amount of federal taxable income from form 1041, line 22 or form 1041-QFT, line 12. **If you checked the box marked “nonresident” on line 2**, enter the amount from Utah form TC-41, Schedule A, line 10. Instructions for Schedule A follow these line-by-line instructions.

### Line 5 – State Income Taxes Deducted on Federal Return

If the fiduciary claimed any **income taxes** paid to Utah or any state, the District of Columbia, or a possession of the United States, as a deduction on the federal fiduciary return (line 11 of federal form 1041 or line 6 of form 1041-QFT), the fiduciary **MUST** show the full amount claimed on this line, unless it is a nonresident estate or trust. Amounts allocated to the beneficiaries should be included in line 10 of this form.

### Line 6 – Interest on U.S. Government Obligations Allocated to Beneficiaries

Include all interest on U.S. government obligations allocated to beneficiaries. See “*Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries*,” in the General Instructions. Attach a schedule of all allocations.

### Line 7 – Total

Add lines 4 through 6.

### Line 8 – Interest Income From U.S. Government Obligations Included in Federal Taxable Income

You may only deduct the amount of interest or dividends from qualifying U.S. government obligations included in your federal adjusted gross income less expenses as outlined in “B” below. See the general instructions on page 2.

#### Qualifying U.S. Obligations

The U.S. Supreme Court in *Smith v. Davis*, 323 U.S. 111 (1944) has set forth the *Smith* test as a basis for determining whether instruments qualify as U.S. government obligations. To qualify as an obligation of the

United States exempt from state taxation under the *Smith* test, the instruments must:

- (1) Be written documents,
- (2) Bear interest,
- (3) Contain a binding promise by the United States to pay specific sums at specified dates, and
- (4) Have congressional authorization, which also pledges the full faith and credit of the United States in support of the promise to pay.

Constitutional doctrine of intergovernmental immunity exempts federal obligations from tax under state or local authority when obligations are issued to secure credit to carry on the necessary functions of government.

You may deduct on line 8 the amount of exempt income *that is used in arriving at your federal taxable income* after reducing the deduction by certain expenses.

#### A. Exempt Income

Income, including trust income distributed to a beneficiary, from the following sources is exempt from Utah state income tax under United States laws:

1. Interest income on bonds or other obligations of the United States government or its possessions (such as treasury bills, notes, and H, HH, E, or EE bonds); and
2. Interest or dividends on bonds or securities of any United States authority, commission or instrumentality that are exempt from state income taxes under federal law.

#### B. Expenses

The exempt income claimed as a deduction must be reduced by the following expenses if the expenses were claimed as deductions in arriving at your taxable income:

1. Interest on money borrowed to purchase or carry bonds or securities; and
2. Ordinary and necessary expenses paid or incurred in connection with producing exempt income.

**If paid out of a trust, attach a schedule showing the calculation of the income and the name, residency and federal employer identification number of the trust making the distribution. Include any fiduciary adjustment on line 6.**

#### C. Income That is NOT Exempt

Income from the following sources is **not** exempt from Utah state income tax:

- (1) Interest or dividends from the Federal National Mortgage Association (FNMA) and Government National Mortgage Association (GNMA); and
- (2) Interest on refunds from the IRS or any federal agency or department.

For more details, refer to Tax Commission publication Pub 33, "Interest from U. S. Obligations."

### Line 9 – Federal Tax

Enter one-half of the federal income tax from line 23 of federal form 1041 or line 15 of 1041-QFT. Nonresident estates or trusts enter one-half of the federal tax liability multiplied by the percentage on Utah Schedule A, line 5.

### Line 10 – State Tax Addback Allocated to Beneficiaries

Include amount of state tax addback allocated to beneficiaries. See "*Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries*," in the General Instructions. Attach a schedule of all state tax addbacks.

### Line 11 – Other Deductions

Check the appropriate box(es) to indicate the type(s) of deduction(s) taken.

#### A. Utah Educational Savings Plan (UESP)

An account holder (participant) or beneficiary, who has received a distribution from UESP, should receive a "Statement of Withholding For Utah Educational Savings Plan," form TC-675H, from the UESP trustee. An account holder may deduct the amount from line 1 of form TC-675H and a beneficiary may deduct the amount from line 4. Attach a copy of TC-675H to the return. If you have any questions about UESP, call 1-800-418-2551.

#### B. Railroad Retirement Pensions

If railroad retirement benefits paid by the Railroad Retirement Board, which have been reported on form RRB 1099 as tier I or tier II income, are paid to an estate in respect of a decedent, that income can be excluded from Utah taxable income. Only those distributions received by the estate, which are included/reported on line 8 of federal form 1041 or line 4 on 1041-QFT, may be excluded from the Utah taxable income of the estate. Attach a copy of form(s) 1099RRB.

**C. Native American Income**

1. **Residents:** Native Americans, who are domiciled and earn income in Utah, should file a Utah income tax return.
  - Enrolled members of a Native American tribe or nation in Utah, who live and work on the reservation on which they are enrolled, are exempt from Utah income tax on income earned on the reservation.
  - Enrolled members of the Ute tribe who work on the Uintah and Ouray Reservation and live on land removed from that reservation under Hagen v. Utah (510 U.S. 399 (1994)) are exempt from Utah income tax on income earned on the reservation.
2. **Nonresidents:** Nonresident Native Americans, who are not domiciled on a reservation within Utah, but earn income from Utah sources, must file a Utah income tax return and pay any tax due.

If unpaid Native American compensation is paid to a decedent's estate in respect of the decedent, and that income is included on line 8 of federal form 1041 or line 4 of federal form 1041-QFT, check the appropriate box and then enter the amount on line 11. Attach a statement to the Utah return giving the name of the nation or tribe and the enrolled number of the decedent.

**Line 12 – Total Subtractions**

Add lines 8 through 11.

**Line 13 – Utah Taxable Income**

Subtract line 12 from line 7. This is your Utah taxable income. If less than zero, enter 0.

**Line 14 – Utah Tax**

Compute the tax for the amount on line 13 using the rate schedule on the back of the return. Check the box on line 14, if you are filing a composite QFT.

**Line 15 – Utah Use Tax**

Use tax is required on all taxable items purchased for storage, use or consumption in Utah, if Utah sales and use tax was not paid at the time of purchase.

Purchases include amounts paid or charged for purchases made on the Internet or through catalogs. Credit is allowed for sales or use tax paid to another state, but not to a foreign country. If the tax rate in the other state is lower than Utah's tax rate, the person or consumer is required to pay the difference. If the tax rate in the other state is greater than Utah's tax rate, no sales or use tax credit or refund applies.

Enter use tax of \$400 or less. If the amount exceeds \$400, the purchaser is required to obtain a sales and use tax license and to pay the use tax on a sales and use tax return.

Sales and use tax rates vary throughout Utah. Use the following chart to find the tax rate for the Utah location where the merchandise was delivered, stored, used or consumed. If the city is not listed, use the county tax rate. Complete the worksheet below to determine the amount of use tax due. Credit for taxes paid to another state cannot exceed the Utah tax that would otherwise be due on those items. If sales taxes were paid to more than one state, complete a worksheet for each state. Enter the sum of the use tax from each worksheet on line 15.

**WORKSHEET FOR COMPUTING UTAH USE TAX**  
(Retain this worksheet for your records.)

1. Total amount of purchases subject to use tax \$ \_\_\_\_\_
2. Use tax rate (decimal) x \_\_\_\_\_
3. Use tax (multiply line 1 by line 2) \$ \_\_\_\_\_
4. Credit for tax paid to another state \$ \_\_\_\_\_
5. Amount of use tax due (line 3 less line 4) Enter ZERO if less than ZERO \$ \_\_\_\_\_

**Use Tax Rate Chart (Effective Dec. 31, 2001)**

<b>.0600 Beaver County</b>	<b>.0760 Alta</b>
<b>.0700 Beaver</b>	<b>.0600 San Juan County</b>
<b>.0600 Box Elder County</b>	<b>.0650 Monticello</b>
<b>.0625 Brigham, Perry, Willard</b>	<b>.0600 Sanpete County</b>
<b>.0600 Cache County</b>	<b>.0625 Ephraim, Gunnison</b>
<b>.0625 Cache Valley Transit, Hyde Park, Hyrum, Logan, Millville, Nibley, N. Logan, Providence, Richmond, River Heights, Smithfield</b>	<b>.0600 Sevier County</b>
<b>.0600 Carbon County</b>	<b>.0625 Richfield, Salina</b>
<b>.0625 Price, Wellington</b>	<b>.0610 Summit County</b>
<b>.0600 Daggett County</b>	<b>.0735 Park City</b>
<b>.0650 Davis County</b>	<b>.0600 Tooele County</b>
<b>.0600 Duchesne County</b>	<b>.0625 Erda, Grantsville, Lakepoint, Lincoln, Tooele City, Stansbury Park</b>
<b>.0625 Roosevelt</b>	<b>.0650 Uintah County</b>
<b>.0575 Emery County</b>	<b>.0675 Vernal</b>
<b>.0750 Green River</b>	<b>.0600 Utah County</b>
<b>.0700 Garfield County</b>	<b>.0625 Alpine, American Fork, Lehi, Lindon, Mapleton, Orem, Payson, Pleasant Grove, Provo, Provo Canyon, Salem, Highland, Spanish Fork, Springville, Cedar Hills</b>
<b>.0800 Boulder, Panguitch, Tropic</b>	<b>.0600 Wasatch County</b>
<b>.0600 Grand County</b>	<b>.0625 Heber</b>
<b>.0775 Moab, East Green River</b>	<b>.0600 Washington Cnty</b>
<b>.0600 Iron County</b>	<b>.0625 Hurricane, Ivins, La Verkin, St. George, Santa Clara, Washington City</b>
<b>.0775 Brian Head</b>	<b>.0750 Springdale</b>
<b>.0600 Juab County</b>	<b>.0600 Wayne County</b>
<b>.0625 Nephi</b>	<b>.0650 Weber County</b>
<b>.0675 Kane County</b>	
<b>.0775 Kanab</b>	
<b>.0575 Millard County</b>	
<b>.0600 Morgan County</b>	
<b>.0600 Piute County</b>	
<b>.0600 Rich County</b>	
<b>.0660 Salt Lake County</b>	

**Line 16 – Amended Returns Only  
(Previous Refunds)**

Use this line only if you are filing an amended return. Enter the amount of all refunds, credits, or offsets of state income tax received for the tax year being amended. Exclude refund interest from this amount.

**Line 17 – Total**

Add lines 14 through 16.

**Line 18 – Credit For Taxes Paid to Another State**

This credit only applies to resident estates or trusts.

A Utah estate or trust must report all of its income regardless of where it was earned. If the estate or trust is also taxed by another state, the District of Columbia, or a possession of the United States on income reported on the Utah return, it is entitled to a credit against the Utah income tax.

To calculate the credit for tax paid to other states, complete a separate Schedule B (on the back of the return) for each other state. Attach a signed copy of each state's fiduciary return for which a credit is claimed.

**Line 19 – Utah Tax Withheld**

Enter the amount of Utah tax withheld shown on forms W-2, 1099R, 1099MISC, etc. Attach these forms to the return.

**Line 20 – Credit for Utah Income Tax Prepaid**

Prepayments include the amount paid with form TC-548, "Prepayment of Fiduciary Tax."

**Line 21 – Other Credits**

Enter the total of "Other Credits" from Schedule C, line 18 on the back of the return. Instructions for Schedule C follow these line-by-line instructions.

**Line 22 – Amended Returns Only  
(Previous Payments)**

Use this line only if you are filing an amended return. Enter the amount of tax paid with the original return and/or subsequent payments of the tax prior to filing this amended return.

**Line 23 – Total Credits**

Add the credits on lines 18 through 22.

**Line 24 – Tax Due**

If the Utah tax shown on line 17 is larger than the total credits on line 23, enter the balance of tax due on line 24.

**Line 25 – Penalty and Interest**

This line is used only for extension, late filed or amended returns. If you owe penalty or interest, enter the amount you have computed. Penalties and interest are explained on page 3.

**Line 26 – Total Amount Paid with Return**

Add lines 24 and 25. Make check or money order payable to the Utah State Tax Commission and write the estate's or trust's federal employer identification number on it. Do not mail cash. The Tax Commission assumes no liability for loss of cash placed in mail.

**Line 27 – Refund**

If the total credits on line 23 are larger than the Utah tax on line 17, enter the amount of refund on line 27. The refund will be issued as soon as reasonably possible. However, allow at least 90 days for processing.

## Instructions for Schedule A – Nonresident Estate or Trust

A nonresident estate or trust must include the portion of its federal taxable income that is derived from Utah sources as defined below.

### Lines 2 and 3 – Ordinary Income and Capital Gain or Loss Derived from Utah Sources

Include those items that are includable for federal fiduciary income tax purposes that are attributable to, or resulting from, ownership in Utah of any interest in real or tangible personal property (including real property or property rights from which "gross income from mining," as defined by the IRC Section 613(c), is derived) or the carrying on of a trade, business, profession or occupation in this state.

Use the following guidelines to determine ordinary income or capital gain or loss derived from Utah sources:

1. Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is derived from property employed in a trade, business, profession or occupation carried on in Utah.
2. Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gain, loss and deduction connected with Utah sources. However, salaries, wages, commissions and compensation for personal services rendered outside the state of Utah shall not be deemed as derived from Utah sources.
3. A nonresident beneficiary's distributive share of ordinary income, gain, loss and deductions derived from or connected with Utah sources shall be determined under UCA §59-10-118.
4. A nonresident estate or trust, other than a dealer holding property primarily for sale to customers in the ordinary course of a trade or business, shall not be deemed to carry on a trade, business, profession or occupation in the state of Utah solely by reason of the purchase or sale of property for its own account.

5. If a trade, business, profession or occupation is carried on partly within and partly without the state of Utah, items of income, gain, loss and deductions derived from or connected with Utah sources shall be determined in accordance with the provisions of UCA §59-10-118.

Enter the amount of ordinary estate or trust income derived from Utah sources on Schedule A, line 2, and the amount of Utah capital gain or loss on Schedule A, line 3.

### Line 6 – Deductions and Expenses Directly Allocable to Utah Income

Amounts directly allocable to Utah income include:

- Depreciation and depletion on Utah properties;
- Interest and taxes pertaining to Utah property;
- Deduction for distributions of Utah income to beneficiaries;
- Capital gain deductions or expenses on Utah capital gains or losses; and
- Estate tax deductions pertaining to Utah income.

### Line 7 – Deductions and Expenses Not Directly Allocable to any Specific Income

Amounts not directly allocable to Utah income include:

- Charitable deductions;
- Fiduciary fees;
- Attorney and accountant fees; and
- The federal exemption.

## Instructions for Schedule C – Other Credits

### Line 1 – Renewable Energy Systems Tax Credit

Attach form TC-40E, "Renewable Energy Systems Tax Credit" with the Utah Energy Office stamp, verifying the credit has been approved.

To qualify for the Renewable Energy Systems Tax Credit, you must have installed or upgraded a renewable energy system, such as solar or wind generated power systems, during the tax period. Energy savings devices, such as insulation, siding, thermal windows, and high efficiency furnaces do not qualify.

In order to determine if your system or system components and installation qualify for the tax credit, you must submit a written application, complete with signatures and photocopies of receipts, to the Utah Energy Office (UEO). Application forms can be obtained from the UEO, 1594 W. North Temple, Suite 3610, Box 146480, SLC, UT 84114-6480, telephone (801) 538-5428 or through the Internet at [www.nr.utah.gov/energy/credits.htm](http://www.nr.utah.gov/energy/credits.htm). If your system meets the eligibility requirements, UEO will send you a TC-40E form with information on your eligible system and installation costs and the UEO stamp of approval.

### Line 2 – Clean Fuel Alternative Credit

Complete and attach form TC-40F, "Clean Fuel Alternative Tax Credit" with the Utah Energy Office seal, verifying the credit has been approved.

To qualify you must have purchased and installed EPA certified pellet burning stoves, high mass wood stoves, solid fuel burning devices, and natural gas or propane free standing fireplaces or inserts.

Contact the Division of Air Quality, Department of Environmental Quality, 150 N 1950 W, SLC, UT 84116-0385; telephone (801) 536-4000 to obtain form TC-40F, certification, and additional information.

### Line 3 – Clean Fuel Vehicle Credit

Complete and attach form TC-40V, "Clean Fuel Vehicle Tax Credit," with the Division of Air Quality approval stamp, verifying the credit has been approved.

To qualify you must have:

- Purchased a vehicle registered in Utah, for which this credit has not been taken, that was manufactured to use propane, natural gas, or electricity, or
- Purchased and installed equipment to convert a vehicle registered in Utah to use propane, natural gas, or electricity.

Note: Hybrid vehicles do not qualify for this credit.

The credit is:

- 50% of the incremental cost of a new vehicle, up to a maximum tax credit of \$3,000, or
- 50% of the cost of the equipment for conversion, up to a maximum tax credit of \$2,500, or
- 50% of the cost of the equipment for conversion of a special fuel mobile equipment engine, up to a maximum tax credit of \$1,000.

Contact the Division of Air Quality, Department of Environmental Quality, 150 N 1950 W, SLC, UT 84116-0385; telephone (801) 536-4000 to obtain form TC-40V, approval, and for additional information.

### Line 4 – Historic Preservation Tax Credit

Complete and attach form TC-40H, "Historic Preservation Tax Credit" with the State Historic Preservation Office certification, verifying the credit has been approved.

This is a credit for costs incurred in connection with qualified rehabilitation of any residential certified historic building. Unused credits may be carried forward five years as a credit against Utah tax due.

Contact the State Historic Preservation Office, 300 Rio Grande, SLC, UT 84101; telephone (801) 533-3563 to obtain form TC-40H, certification, and additional information.

### Line 5 – Enterprise Zone Credit

There is no form for this credit. Keep documentation to support this credit.

For businesses to qualify for the enterprise zone credit, at least 51 percent of the employees employed by the business located in the enterprise zone must reside in the county in which the enterprise zone is located.

- Public utilities and businesses engaged in retail trade are not eligible for this credit.
- Construction jobs are not eligible for the tax credits in paragraphs 1- 4 below.

The following state tax credits are applicable to qualifying businesses in an enterprise zone.

1. A credit of \$750 for each new full-time position filled for not less than six months during a tax year.
2. An additional \$500 tax credit if the new position pays at least 125 percent of the county average

monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services. If this information is not available, the job must pay at least 125 percent of the total average monthly nonagricultural payroll wage in the respective county where the enterprise is located.

3. An additional credit of \$750 may be claimed if the new position is in a business that adds value to agricultural commodities through manufacturing or processing.
4. An additional \$200 credit may be claimed for two consecutive years for each new employee who is insured under an employer-sponsored health insurance program, if the employer pays at least 50 percent of the premium cost for two consecutive years.
5. A 50 percent credit, not to exceed \$100,000, for cash contributions made to a private nonprofit corporation that is exempt from federal income tax under IRC Section 501(c)(3), whose primary purpose is community and economic development and is accredited by the Utah Rural Development Council Board of Directors.
6. A 25 percent credit of the first \$200,000 spent on rehabilitating a building, vacant for two years, in the enterprise zone.
7. An annual investment tax credit of 10 percent of the first \$250,000 investment and 5 percent of the next \$1,000,000 qualifying investment in plant, equipment or other depreciable property.

A business claiming a credit under paragraphs 1 - 4 may claim a credit for 30 full-time employee positions or less in each of its taxable years.

A business may claim an additional credit for a full-time employee position under paragraphs 1 - 4 above if:

1. The business creates a new full-time employee position;
2. The total number of full-time employee positions is greater than the number of full-time employee positions previously claimed by the business under paragraph 1 - 4; and
3. The total number of credits claimed for its current taxable year, including the new full-time employee positions being claimed as a credit, is less than or equal to 30.

If the tax credit exceeds the tax owed, the credit amount exceeding the amount owed may be carried forward for a period that does not exceed the next three taxable years.

Indian tribes may apply for enterprise zone designation within an Indian reservation.

If enterprise zone credits are being taken on your ownership in a partnership or S corporation, you must allocate the credits calculated above based on your respective percentage of ownership.

Contact the Department of Community and Economic Development, 324 S. State St., Suite 500, SLC, UT 84111, telephone (801) 538-8782 to obtain additional information.

## **Line 6 – Qualified Sheltered Workshop Cash Contribution Credit**

*There is no form for this credit. Keep documentation to support this credit. The name of the qualified workshop must be written on the return to claim credit.*

Cash contributions made within the tax year to a qualified nonprofit rehabilitation sheltered workshop facility for persons with disabilities operating in Utah are eligible for a credit against Utah income taxes. Check with the workshop to make sure they have a current Day Training Provider License or Day Support Provider Certificate issued by the Department of Human Services. The credit is equal to 50 percent of the total of cash contributions, not to exceed \$200. Contributions claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income (UCA §59-10-108).

Contact Contract Administrator, Division of Services for Person's with Disabilities, 120 N 200 W #411, Salt Lake City, UT 84103; telephone (801) 538-4200 for more information.

## **Line 7 – Low Income Housing Credit**

*Individuals sharing in the credit must attach forms TC-40TCAC, "Utah Low-Income Housing Tax Credit Allocation Certification," and complete and attach form TC-40LI, "Summary of Utah Low-Income Housing Tax Credit," to the return. If you are carrying this credit forward or backward, you must also attach form TC-40LIC, "Utah Low-Income Housing Tax Credit Carryback and/or Carryforward," to your return.*

*The building project owner must also complete and attach form TC-40LIS, "Credit Share Summary of Low-Income Housing Project" to the return.*

This credit is an amount, determined by the Utah Housing Corporation, for the owners of a low-income housing project that have also received an allocation of the federal low-income housing tax credit. Unused credits may be carried back three years or carried forward five years.

When this credit is applicable, the project owner will provide form TC-40TCAC (issued by the Utah Housing Corporation) to the taxpayer.

Contact the Utah Housing Corporation, 554 S 300 E, SLC, UT 84111, telephone (801) 521-6950.

## **Line 8 – Tax Credit For Employers Who Hire Persons With Disabilities**

*Complete and attach form TC-40HD, "Tax Credit for Employers Who Hire Persons with Disabilities," showing certification.*

The credit is for employers hiring individuals with disabilities who: (1) worked in this state for at least 6 months in a taxable year for that employer; and (2) are paid at least minimum wage by that employer.

Individuals with disabilities are defined as individuals who: (1) have been receiving services from a day-training program or from a supported employment program for persons with disabilities, which is certified by the Department of Human Services as a qualifying program for at least six consecutive months prior to working for the employer claiming the tax credit; or (2) are eligible for services from the Division of Services for People with Disabilities at the time the individuals begin working for the employer claiming the tax credit.

Contact the Utah Department of Human Services, Division of Services for People with Disabilities, 120 N. 200 W., Room 411, SLC, Utah 84103, telephone (801) 538-4200 to obtain form TC-40HD, certification and additional information.

## **Line 9 – Recycling Market Development Zones**

*Attach the completed form TC-40R, "Recycling Market Development Zone Tax Credit" with the Department of Community and Economic Development certification, verifying the credit has been approved.*

The Utah Legislature has authorized credit to individuals and businesses operating in a designated recycling market development zone as defined in UCA §9-2-1602.

Contact the Department of Community and Economic Development, 324 S. State St., Suite 500, SLC, UT 84111, (801) 538-8804 (or email [lprrall@utah.gov](mailto:lprrall@utah.gov)) to obtain form TC-40R, certification, and additional information.

## **Line 10 – Tutoring Tax Credit For Disabled Dependents**

*There is no form for this credit. Keep documentation to support this credit.*

The credit is equal to 25 percent, up to \$100, of the costs paid by the taxpayer for tutoring each disabled dependent.

A disabled dependent is defined as a person who: (1) is disabled under UCA §53A-15-301; (2) attends a public or private kindergarten, elementary, or secondary school; and (3) is eligible to receive disability program monies under UCA §53A-17a-111.

Tutoring, for purposes of this credit means educational services approved by an individual education plan team and provided to a disabled dependent that supplements classroom instruction the disabled dependent receives at a public or private kindergarten, elementary or secondary school in the state.

Tutoring does not include:

1. Purchases of instructional books and materials; and
2. Payments for attendance at extracurricular activities, including sporting events, musical or dramatic events, speech activities, or driver education.

Contact the Utah State Board of Education at (801) 538-7700 for additional information.

## **Line 11 - Credit for Increasing Research Activities**

The credit is for expenses incurred for increasing qualified research activities in Utah. A qualifying taxpayer may claim the credit in the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit.

A qualifying taxpayer may take the following nonrefundable credits for research activities in Utah:

- 1) A research credit of 6% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount; and
- 2) A credit for payments to qualified organizations for basic research, as provided in IRC Section 41(e), of 6% for the current taxable year that exceed the base amount.

For detailed information regarding this credit, including definition of terms and procedures for claiming the credit, refer to UCA §59-10-131.

## **Line 12 - Credit for Machinery and Equipment Used to Conduct Research**

The credit is for machinery, equipment, or both used primarily for conducting qualified research or basic research in Utah for a time period of not less than 12 consecutive months. A qualifying taxpayer may claim

the credit in the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit.

A qualifying taxpayer may take the following nonrefundable credits:

1. A credit of 6 percent of the purchase price of certain machinery and equipment primarily used to conduct qualified research in Utah; and
2. A credit of 6 percent of the purchase price of certain machinery and equipment donated to a qualified organization and used primarily to conduct basic research in Utah.

For detailed information regarding this credit, including definition of terms and procedures for claiming the credit, refer to UCA §59-10-132.

### **Line 13 – Total of Nonrefundable Credits**

Add lines 1 through 12. This amount cannot be greater than line 14 less line 18 on the front of the return.

### **Line 14 – Mineral Production Withholding Tax Credit**

Enter the total of the mineral production tax withheld as shown on forms TC-675R or federal schedule K-1(s) for 2001. Be sure to attach copies of form TC-675R or Schedule K-1 to the return to receive proper credit. (Include with other W-2 and 1099 forms.)

### **Line 15 – Credit for Agricultural Off-Highway Gasoline and Undyed Diesel Tax**

Attach federal form 1040 Schedule F or K-1. There is no state form for this credit. Keep all personal records, forms, and worksheets to support this credit.

The credit is 24.5 cents per gallon only for motor fuel and undyed diesel fuel purchased in Utah to operate stationary farm machinery used solely for commercial nonhighway agricultural use that was taxed at the time of purchase.

Activities that DO NOT qualify for this credit include, but are not limited to, the following: Golf courses, horse racing, boat operations, highway seeding, vehicles registered for highway use, hobbies, farming for personal use, etc.

Multiply your total gallons eligible for the credit by 0.245. Write the gallons and credit amount in the spaces provided.

### **Line 16 – Non or Part-Year Resident Non-resident Shareholder's Withholding Tax Credit**

Nonresident shareholders of an S corporation, are entitled to a credit for the Utah income tax withheld and paid by the S corporation on their behalf. A credit can be claimed for an amount equal to the shareholder's respective share based on ownership as it relates to other nonresident shareholders and the amount withheld by the S corporation on behalf of the nonresident shareholders.

Enter the federal ID number of the S corporation. You must also check the box on line 3 of form TC-41.

### **Line 17 – Special Needs Adoptions Credit**

A taxpayer who adopts a child with special needs may claim a refundable credit of \$1,000 for each child adopted. This credit may only be claimed in the tax year the court issues the order granting the adoption and may not be carried forward or back.

To claim this credit, permanent custody of the child must have been awarded to the Utah Division of Child and Family Services, and the child must meet one of the following conditions:

- Be five years of age or older
- Be under the age of 18 with physical, emotional, or mental disability; or
- Be a member of a sibling group (two or more persons) placed together for adoption

### **Line 18 – Total of Other Credits**

Enter the total of lines 13 through 17 here and on line 21 on the front of the return.

## Qualified Funeral Trust Information And Instructions

### Who Must File

The trustee of a trust that has elected to be taxed as a qualified funeral trust (QFT) and files federal Form 1041-QFT to report the income, deductions, gains, losses, etc., and income tax liability of the QFT. The trustee can use the state form TC-41 to file for a single QFT or for multiple QFTs having the same trustee following the instructions under Composite Return on this page.

Pre-need funeral trusts that do not qualify as QFTs should see the instructions for Utah State Form TC-41, Utah Fiduciary Income Tax, for their filing requirements. **Only trustees of a 1041-QFT filing a composite federal return and composite state return should check the "Qualified Funeral Trust (QFT)" box on line 1 of the state form TC-41.**

### Qualified Funeral Trust

A QFT is a domestic trust that meets all of the following requirements:

- It arose as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services.
- The sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use those funds solely to pay for funeral or burial services or property to provide such services for the benefit of the beneficiaries of the trust.
- The only beneficiaries are individuals for whom such services or property are to be provided at their death under the contracts described above.
- The aggregate contributions to the trust on behalf of any single beneficiary do not exceed \$7,000 and are made by or for the benefit of such beneficiaries.
- The trustee makes or previously had made the election to treat the trust as a QFT.
- If the QFT election had not been made, the trust would have been treated as owned by the purchasers of the contracts under the grantor trust provisions of the Internal Revenue Code. However, a trust that is not treated as owned by the purchaser solely because of the death of an individual shall be treated as meeting this requirement during the 60-day period beginning on the date of that individual's death.

If a QFT has multiple beneficiaries, each beneficiary's separate interest under a contract is treated as a separate QFT for the purpose of figuring the tax and filing this return. Each beneficiary's share of the trust's income is determined in accordance with the beneficiary's interest in the trust.

Whenever these instructions refer to a trust or QFT, it includes such separate interests that are treated as separate QFTs.

### Contribution Limit

To determine whether a trust meets the \$7,000 contribution limit, you must determine not only whether there have been contributions in excess of \$7,000, but also whether, over the anticipated life of the trust, it is expected to receive contributions in the future that exceed the contribution limit. Projected contributions are based on existing contributions, the applicable state law trust contribution requirements, and any expected contributions in excess of the state law requirements. You must make this determination at the inception of the trust and at any time the amount of the projected contributions changes. A trust that is determined at its inception not to exceed the contribution limit, but that exceeds the limit in a future year due to a change in projected contributions, will be deemed to exceed the contribution limit at the time of the change in projected contributions.

### Making the Election

The trustee makes the election to treat a trust as a QFT by filing federal Form 1041-QFT by the due date (including extensions).

### Composite Return

A trustee may file a single, composite Utah State Tax Commission Form TC-41 for all QFTs of which he or she is the trustee, including QFTs that had a short tax year.

You must check the box on line 14, "Composite Return," and attach a schedule to the composite Utah State Tax Commission Form TC-41 that includes the following information for each QFT (or separate interest treated as a separate QFT):

- The name of the owner or the beneficiary. If you list the name of the owner and that trust has more than one beneficiary, you must separate the trust into shares held by the separate beneficiaries. The same information used on the federal form 1041-QFT can be used in computing the state tax.

- The type and gross amount of each type of income earned by the QFT for the tax year. For capital gains, identify separately the amount of net short-term capital gain, net long-term capital gain, 28% rate gain, and unrecaptured section 1250 gain;
- The type and amount of each deduction and credit allocable to the QFT;
- The tax and payments made for each QFT; and
- If the QFT was terminated during the year, give the date of the termination.

### Specific Instructions

The line-by-line instructions should be followed with the exception of the computation of tax. Attach to the TC-41, schedules that include the number of QFTs.

**Composite Return.** If this is a composite return, the same information and schedules used on the federal form 1041-QFT can be used in computing the state tax. A separate schedule should be used to calculate the tax for each QFT using the graduated tax rates for each QFT. Enter the total of tax due on line 14.

If this is a composite return, enter the total number of QFTs (including separate interests treated as separate QFTs) included on the return.

If this is a composite return, figure the AGI separately for each QFT using each QFT's share of the amounts on the lines referred to above.

**Tax Rate Schedule.** Figure the tax using the Tax Rate Schedule below. Enter the tax on line 14.

#### 2001 State Tax Rate Schedule

##### If the state taxable

##### income is:

Less than or equal to \$863

Over \$863 not over \$1,726

Over \$1,726 not over \$2,588

Over \$2,588 not over \$3,450

Over \$3,450 not over \$4,313

Over \$4,313

##### The Tax is:

2.3% of state taxable income

\$20, plus 3.3% of excess over \$863

\$48, plus 4.2% of excess over \$1,726

\$85, plus 5.2% of excess over \$2,588

\$129, plus 6% of excess over \$3,450

\$181, plus 7% of excess over \$4,313

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Utah State Tax Commission  
210 North 1950 West  
Salt Lake City, UT 84134

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